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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 140710571-4977-02]

RIN 0648-BE36

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Restrictions on the Use of Fish Aggregating Devices in Purse Seine Fisheries for 2015

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues regulations under authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFC Implementation Act) to establish restrictions on the use of fish aggregating devices (FADs) by U.S. purse seine vessels in the western and central Pacific Ocean (WCPO). The restrictions include a prohibition on setting on FADs and other specific uses of FADs during January and February, and July through September of 2015, and a limit of 3,061 sets that may be made on FADs in 2015. This action is necessary for the United States to implement provisions of a conservation and management measure (CMM) adopted by the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC or Commission) and to satisfy the obligations of the United States under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention), to which it is a Contracting Party.

DATES: This rule is effective January 1, 2015.

ADDRESSES: Copies of supporting documents prepared for this final rule, including the regulatory impact review (RIR) and the Supplemental Environmental Assessment (SEA) prepared for National Environmental Policy Act (NEPA) purposes, as well as the proposed rule, are available via the Federal e-Rulemaking Portal, at www.regulations.gov (search for Docket ID NOAA-NMFS-2014-0115). Those documents, and the small entity compliance guide prepared for this final rule, are also available from NMFS at the following address: Michael D. Tosatto, Regional Administrator, NMFS, Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Building 176, Honolulu, HI 96818. The initial regulatory flexibility analysis (IRFA) and final regulatory flexibility analysis (FRFA) prepared under the authority of the Regulatory Flexibility Act (RFA) are included in the proposed rule and this final rule, respectively.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to Michael D. Tosatto, Regional Administrator, NMFS PIRO (see ADDRESSES), and by e-mail to OIRA_Submission@omb.eop.gov, or fax to (202) 395-7285.

FOR FURTHER INFORMATION CONTACT: Tom Graham, NMFS PIRO, 808-725-5032.

SUPPLEMENTARY INFORMATION:

Background

On October 8, 2014, NMFS published a proposed rule in the Federal Register (79 FR 60796) to revise regulations at 50 CFR part 300, subpart O, to implement a decision of the Commission. The proposed rule was open for public comment through October 28, 2014.

This final rule is issued under the authority of the WCPFC Implementation Act (16 U.S.C. 6901 et seq.), which authorizes the Secretary of Commerce, in consultation with the

Secretary of State and the Secretary of the Department in which the United States Coast Guard is operating (currently the Department of Homeland Security), to promulgate such regulations as may be necessary to carry out the obligations of the United States under the Convention, including the decisions of the Commission. The authority to promulgate regulations has been delegated to NMFS.

This final rule implements for U.S. fishing vessels some of the purse seine-related provisions of the Commission's Conservation and Management Measure (CMM) 2013-01, "Conservation and Management Measure for Bigeye, Yellowfin and Skipjack Tuna in the Western and Central Pacific Ocean." The preamble to the proposed rule includes detailed background information, including on the Convention and the Commission, the provisions of CMM 2013-01 being implemented in this rule, and the bases for the proposed regulations, which are not repeated here.

New Requirements

This final rule establishes restrictions on the use of FADs and reporting requirements related to the use of FADs that apply to U.S. purse seine vessels in the area of application of the Convention (Convention Area), in all exclusive economic zones (EEZs) and on the high seas between the latitudes of 20° North and 20° South.

1. FAD restrictions

The FAD restrictions established in this final rule include a prohibition on setting on FADs ("FAD sets") and other specific uses of FADs in January and February and July through September of 2015, as well as a limit of 3,061 FAD sets that may be made in 2015. However, for the reason described below, the FAD prohibitions during January and February and the limit of 3,061 FAD sets are contingent on NMFS issuing a subsequent notice in the Federal Register,

announcing that the WCPFC has affirmed its decision with respect to restrictions on the use of FADs in 2015.

Paragraph 15 of CMM 2013-01 states that the FAD-related requirements starting in 2015 (apart from the July-September FAD closure) shall only take effect when the Commission has adopted, at its Eleventh Regular Session, "... arrangements to ensure that this CMM, consistent with the Convention Article 30 2(c), does not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto SIDS [small island developing States]." Thus, upon completion of the Eleventh Regular Session of the WCPFC, which is scheduled to occur in December 2014, NMFS will determine whether this criterion has been met, and if it finds that it has, NMFS will issue a Federal Register notice announcing that these elements of this final rule are in effect. Again, the prohibitions on FAD sets and other uses of FADs from July through September of 2015 will not be contingent on NMFS issuing a subsequent Federal Register notice.

Under this final rule, the definition of a FAD for the purpose of the FAD restrictions remains as it is in existing regulations (50 CFR 300.211). It means "any artificial or natural floating object, whether anchored or not and whether situated at the water surface or not, that is capable of aggregating fish, as well as any object used for that purpose that is situated on board a vessel or otherwise out of the water. The definition of FAD does not include a vessel." Although the definition of a FAD does not include a vessel, some of the prohibitions apply to setting on fish that have aggregated in association with a vessel, as described further below.

If NMFS determines that the limit of 3,061 FAD sets is expected to be reached by a specific future date in 2015, NMFS will issue a notice in the Federal Register announcing that FAD sets and other specific uses of FADs in the Convention Area between the latitudes of 20°

North and 20° South will be prohibited starting on that specific future date and ending at the end of December 31, 2015. NMFS will issue the notice at least seven calendar days before the effective date of the FAD closure to provide fishermen advance notice of the closure.

The specific activities that will be prohibited during the FAD closure periods (i.e., January and February and July through September, as well as any period after which the FAD set limit has been reached, through December 31, 2015) will remain as they are in existing regulations (50 CFR 300.223(b)). It will be prohibited to:

- (1) Set a purse seine around a FAD or within one nautical mile of a FAD;
- (2) Set a purse seine in a manner intended to capture fish that have aggregated in association with a FAD or a vessel, such as by setting the purse seine in an area from which a FAD or a vessel has been moved or removed within the previous eight hours, or setting the purse seine in an area in which a FAD has been inspected or handled within the previous eight hours, or setting the purse seine in an area into which fish were drawn by a vessel from the vicinity of a FAD or a vessel;
- (3) Deploy a FAD into the water;
- (4) Repair, clean, maintain, or otherwise service a FAD, including any electronic equipment used in association with a FAD, in the water or on a vessel while at sea, except that a FAD may be inspected and handled as needed to identify the FAD, identify and release incidentally captured animals, un-foul fishing gear, or prevent damage to property or risk to human safety, and a FAD may be removed from the water and if removed may be cleaned, provided that it is not returned to the water; and
- (5) From a purse seine vessel or any associated skiffs, other watercraft or equipment, do any of the following, except in emergencies as needed to prevent human injury or the loss of

human life, the loss of the purse seine vessel, skiffs, watercraft or aircraft, or environmental damage: submerge lights under water; suspend or hang lights over the side of the purse seine vessel, skiff, watercraft or equipment; or direct or use lights in a manner other than as needed to illuminate the deck of the purse seine vessel or associated skiffs, watercraft or equipment, to comply with navigational requirements, and to ensure the health and safety of the crew.

2. Daily FAD reporting requirement

For the purpose of estimating and projecting FAD sets with respect to the limit of 3,061 FAD sets, NMFS will count FAD sets using the best information available. This final rule establishes a new reporting requirement for U.S. purse seine vessel owners and operators. Within 24 hours of the end of each day while the vessel is at sea in the Convention Area, the owner or operator must report to NMFS how many sets were made on FADs during that day. The format of the reports and the manner of reporting must follow the instructions provided by the NMFS Pacific Islands Regional Administrator.

Comments and Responses

NMFS received 2 sets of comments on the proposed rule. The comments are summarized below, followed by responses from NMFS.

Comment 1: The proposed action is important, powerful, and will prove beneficial, and will help keep the catch of highly migratory species sustainable. The 24-hour FAD reporting requirement is a good idea. One question/concern is whether fishermen should be given more than 7 days' notice before the use of FADs is prohibited. Would more advance notice help reduce the use of FADs because fishermen could come up with alternative fishing methods? Or would the additional time to think about alternative methods increase fishing rates on HMS to an unacceptable level?

Response: NMFS acknowledges the supportive comments. With respect to the Federal Register notice that NMFS would issue in advance of prohibiting FAD sets and other uses of FADs in the event the FAD set limit is expected to be reached, the primary intent of the notice is to give fishermen sufficient time to prepare for the impending prohibitions, to help ensure they are able to fully comply with them. Because affected fishermen will have received advance notice of the limit through the rulemaking process, including a compliance guide, NMFS expects that they will think about and plan for alternative fishing methods and activities before the notice is issued. Consequently, NMFS does not expect that providing more than 7 days' advance notice would have a marked influence on fishermen's behavior, such as the extent of fishing on FADs or fishing rates more generally. Additionally, the briefer the interval between the date the projection is made (and the notice is issued) and the date the limit is expected to be reached, the more accurate the projection is likely to be. Therefore, the longer the advance notice given to fishermen, the more the actual number of FAD sets in 2015 is likely to deviate from the limit. For these reasons, NMFS has maintained in this final rule an advance notice period of "at least 7 days", as in the proposed rule.

Comment 2: The proposed regulations will be insufficient to return the population of bigeye tuna from its overfished condition (smaller than 20 percent of the spawning stock biomass that would exist in the absence of fishing) if current exemptions to the WCPFC measure and lack of enforcement remain unchanged.

More needs to be done than only requiring U.S. vessels to implement WCPFC measures. NOAA has an obligation to be more aggressive in its efforts to bring about more assured sustainability in the WCPO tuna fishery, and this would help create a more even playing field for the U.S. tuna industry. Before additional FAD regulations are established, resources should be

invested in enforcement of current WCPFC measures with aggressive consequences for those nations that operate outside of the agreed-upon sustainability guidelines necessary for a healthy fishery. Other legal authorities, including the Pelly Amendment, should be utilized to bolster the effectiveness of the Commission's conservation and management measures.

Response: With respect to the expected effects of the rule on the stock of WCPO bigeye tuna, NMFS recognizes that this regulatory action alone, which applies only to U.S. fishing vessels, will have relatively small effects on the stock, as described in the SEA prepared for the rule. NMFS recognizes that effective management of the tuna resources and fisheries in the WCPO requires cooperation among the WCPFC members.

Furthermore, with respect to enforcement of current WCPFC measures and consequences for nations that operate outside agreed sustainability guidelines, NMFS agrees that achieving a high level of compliance with Commission decisions by all WCPFC members is important to achieve the objectives of the Convention and of Commission decisions like CMM 2013-01, as well as to achieve a more level playing field for the U.S. tuna industry. NMFS notes that the United States, as a member of the WCPFC, is contributing to and has prioritized the development of the Commission's compliance monitoring scheme, with the aim of improving compliance with Commission decisions by all its members. NMFS recognizes that there are additional laws pertaining to conservation and management measures for tuna stocks and the enforcement of such measures, including the Pelly Amendment. However, the purpose of this rulemaking is limited to satisfying the obligations of the United States to implement the applicable provisions of CMM 2013-01 for U.S. purse seine vessels, including the FAD restrictions.

In addition to comments on the proposed rule, the commenter cited problems with the

timeliness and efficacy of the conservation measures adopted by the WCPFC and with the implementation and enforcement of WCPFC decisions, including restrictions on the use of FADs, by other WCPFC members. The commenter stated that the United States should take specific actions to address these problems and to make the WCPFC more successful. These comments are outside the scope of the proposed rule, so NMFS does not respond to them here.

Changes from the Proposed Rule

No changes from the proposed rule have been made in this final rule.

Classification

The Administrator, Pacific Islands Region, NMFS, has determined that this final rule is consistent with the WCPFC Implementation Act and other applicable laws.

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act (RFA)

A FRFA was prepared. The FRFA incorporates the IRFA prepared for the proposed rule. The analysis in the IRFA is not repeated here in its entirety.

A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble of the proposed rule and in the SUMMARY and SUPPLEMENTARY INFORMATION sections of this final rule, above. The analysis follows.

Significant Issues Raised by Public Comments in Response to the IRFA

NMFS did not receive any comments on the IRFA.

Description of Small Entities to Which the Rule Will Apply

Small entities include “small businesses,” “small organizations,” and “small governmental jurisdictions.” The Small Business Administration (SBA) has established size standards for all major industry sectors in the United States, including commercial finfish harvesters (NAICS code 114111). A business primarily involved in finfish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$20.5 million for all its affiliated operations worldwide.

The final rule will apply to owners and operators of U.S. purse seine vessels used for fishing in the Convention Area. The number of affected vessels is the number licensed under the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America (South Pacific Tuna Treaty, or SPTT). The current number of licensed vessels is 40, the maximum number of licenses available under the SPTT (excluding joint-venture licenses, of which there are five available under the SPTT, none of which have ever been applied for or issued).

Based on (limited) available financial information about the affected fishing vessels and the SBA’s small entity size standards for commercial finfish harvesters, and using individual vessels as proxies for individual businesses, NMFS believes that all the affected fish harvesting businesses are small entities. As stated above, there are currently 40 purse seine vessels in the affected purse seine fishery. Neither gross receipts nor ex-vessel price information specific to the 40 vessels are available to NMFS. Average annual receipts for each of the 40 vessels during the last 3 years for which reasonably complete data are available (2010-2012) were estimated as follows. The vessel’s reported retained catches of skipjack tuna, yellowfin tuna, and bigeye tuna in each year were each multiplied by an indicative Asia-Pacific regional cannery price for that

species and year (developed by the Pacific Islands Forum Fisheries Agency and available at <https://www.ffa.int/node/425#attachments>); the products were summed across species for each year; and the sums were averaged across the 3 years. The estimated average annual receipts for each of the 40 vessels were less than the \$20.5 million threshold used to classify businesses as small entities under the SBA size standard for finfish harvesting businesses.

Recordkeeping, Reporting, and Other Compliance Requirements

The final rule will establish one new reporting requirement within the meaning of the Paperwork Reduction Act, as well as additional requirements, as described in the SUPPLEMENTARY INFORMATION section of this final rule, above. The classes of small entities subject to the requirements and the types of professional skills necessary to fulfill each of the requirements are described in the IRFA.

Disproportionate Impacts

There would be no disproportionate economic impacts between small and large entities operating purse seine vessels as a result of this final rule. Furthermore, there would be no disproportionate economic impacts based on vessel size, gear, or homeport.

Steps Taken to Minimize the Significant Economic Impacts on Small Entities

NMFS considered two alternatives to the proposed FAD restrictions, and one alternative to the proposed daily FAD reporting requirement.

The first alternative for the FAD restrictions would establish a three-month FAD closure period (instead of five months) and a FAD set limit of 2,202 (instead of 3,061) for 2015. The months of the FAD closure period would be July through September. This alternative is based on the second of the two options available to the United States under CMM 2013-01, as described in the proposed rule. The compliance burden associated with this alternative would depend, like

that of the proposed action, on the amount of fishing effort that will be available to the fleet in 2015. If the amount of available fishing effort is relatively high, this alternative would likely bring greater economic impacts than the proposed action, and the reverse would be the case for relatively low levels of total available fishing effort. For example, if the fleet makes 51 percent of its sets on FADs during periods when FAD sets are allowed, as it did in 2010-2011, and if fishing effort is evenly distributed through the year, the “breakeven” point, in terms of which of the two actions—the proposed action or a three-month FAD closure in combination with a FAD set limit of 2,202—would bring greater economic impacts to fishing businesses would be approximately 7,402 total sets. In other words, under those assumptions, if more than 7,402 total sets are available to the fleet in 2015, the alternative of a three-month FAD closure in combination with a FAD set limit of 2,202 would likely bring greater economic impacts to fishing businesses than would the proposed action. The reverse would be the case if fewer than 7,402 total sets are available to the fleet in 2015. Although the amount of fishing effort available to the fleet in 2015 cannot be predicted with much certainty, an interim arrangement for 2015 recently reached among the parties to the SPTT is informative. Under the arrangement, U.S. purse seine vessels will have access to 8,301 fishing days in the waters of the members of the Pacific Islands Forum Fisheries Agency (FFA) in 2015. The fleet also will be able to fish on the high seas, and vessels with fishery endorsements will have access to the U.S. EEZ, although the number of allowable fishing days on the high seas and in the U.S. EEZ in 2015 is likely to be limited (a limit has not yet been set for 2015, but for reference, the limit for 2014 is 1,828 fishing days). Thus, the fleet is likely to have access to at least 8,301 fishing days, and probably closer to 10,000 days, in 2015. In 2010 and 2011, the fleet made approximately 0.93 sets per fishing day, on average (NMFS unpublished data). Thus, the number of sets effectively available to the fleet

in 2015 is expected to be more than the estimated “breakeven” point of 7,402 sets identified above. However, the interim arrangement negotiated under the SPTT for 2015 includes limitations on the number of fishing days that may be used in some locations that have been important fishing grounds for the fleet. Consequently, it is conceivable that the number of “effective” or “useable” fishing days available to the fleet in 2015 will be less than the “breakeven” point identified above. NMFS does not have the information that would be needed to conclude whether that will be the case. Thus, because NMFS has not identified any reasons that make the alternative of a three-month FAD closure period and a FAD set limit of 2,202 preferable to the proposed action, NMFS rejects that alternative.

The second alternative for the FAD restrictions would be the same as the proposed restrictions except that it would not be prohibited to set on fish that have aggregated in association with a vessel, provided that the vessel is not used in a manner to aggregate fish (versus a FAD, which by definition does not include a vessel). This would be less restrictive and thus presumably less costly to affected purse seine fishing businesses than the proposed requirements. The number of such sets made historically has been relatively small, averaging about four per year for the entire fleet from 1997 through 2010, according to data recorded by vessel operators in logbooks (examination by NMFS of observer data from selected years indicates a somewhat higher number than the number reported by vessel operators, so vessel logbook data might underestimate the actual number, but the number is still small in comparison to FAD sets). Therefore, the degree of relief in compliance costs of allowing such sets during the FAD closure periods would be expected to be relatively small. NMFS believes that this alternative would not serve CMM 2013-01’s objective of reducing the fishing mortality rates of bigeye tuna and young tunas through seasonal prohibitions on the use of FADs as well as would

the proposed rule. For that reason, this alternative is rejected.

The alternative for the daily FAD reporting requirement would be the same as the proposed requirement except that it would apply only whenever a vessel is on a fishing trip in the Convention Area, rather than whenever a vessel is at sea (whether it be fishing or transiting) in the Convention Area. This alternative would relieve vessel owners and operators of the reporting requirement when the vessel is transiting without fishing, which would presumably result in lesser compliance costs. However, NMFS does not have information that allows it to readily discern on a near real-time basis whether a given vessel, when at sea, is on a fishing trip or not. Thus, NMFS would have less ability to estimate and project FAD sets in a timely and reliable manner than it would under the proposed rule, and for that reason, this alternative is rejected.

The alternative of taking no action at all is rejected because it would fail to accomplish the objective of the WCPFC Implementation Act or satisfy the international obligations of the United States as a Contracting Party to the Convention.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as “small entity compliance guides.” The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide has been prepared. The guide will be sent to permit and license holders in the affected fishery. The guide and this final rule will also be available at www.fpir.noaa.gov and by request from NMFS PIRO (see ADDRESSES).

Paperwork Reduction Act

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by the Office of Management and Budget (OMB) under control number 0648-0649. Public reporting burden for the daily FAD report is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The only comment received by NMFS on this collection-of-information requirement in response to the proposed rule was that the daily FAD report is a good idea. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to Michael D. Tosatto, Regional Administrator, NMFS PIRO (see ADDRESSES), and by e-mail to OIRA_Submission@omb.eop.gov or fax to 202-395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources,
Reporting and recordkeeping requirements, Treaties.

Dated: November 20, 2014

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300 is amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for 50 CFR part 300, subpart O, continues to read as follows:

Authority: 16 U.S.C. 6901 et seq.

2. In § 300.218, paragraph (g) is added to read as follows:

§ 300.218 Reporting and recordkeeping requirements.

* * * * *

(g) Daily FAD reports. The owner or operator of any fishing vessel of the United States equipped with purse seine gear must, within 24 hours of the end of each day that the vessel is at sea in the Convention Area, report to NMFS, in the format and manner directed by the Pacific Islands Regional Administrator, how many purse seine sets were made on FADs during that day.

3. In § 300.222, paragraph (rr) is added to read as follows:

§ 300.222 Prohibitions.

* * * * *

(rr) Fail to submit, or ensure submission of, a daily FAD report as required in § 300.218(g).

4. In § 300.223, paragraph (b) is revised to read as follows:

§ 300.223 Purse seine fishing restrictions.

* * * * *

(b) Use of fish aggregating devices. (1) During the periods specified in paragraph (b)(2) of this section, owners, operators, and crew of fishing vessels of the United States shall not do any of the activities described below in the Convention Area in the area between 20° N. latitude and 20° S. latitude:

(i) Set a purse seine around a FAD or within one nautical mile of a FAD.

(ii) Set a purse seine in a manner intended to capture fish that have aggregated in association with a FAD or a vessel, such as by setting the purse seine in an area from which a FAD or a vessel has been moved or removed within the previous eight hours, or setting the purse seine in an area in which a FAD has been inspected or handled within the previous eight hours, or setting the purse seine in an area into which fish were drawn by a vessel from the vicinity of a FAD or a vessel.

(iii) Deploy a FAD into the water.

(iv) Repair, clean, maintain, or otherwise service a FAD, including any electronic equipment used in association with a FAD, in the water or on a vessel while at sea, except that:

(A) A FAD may be inspected and handled as needed to identify the FAD, identify and release incidentally captured animals, un-foul fishing gear, or prevent damage to property or risk to human safety; and

(B) A FAD may be removed from the water and if removed may be cleaned, provided

that it is not returned to the water.

(v) From a purse seine vessel or any associated skiffs, other watercraft or equipment, do any of the following, except in emergencies as needed to prevent human injury or the loss of human life, the loss of the purse seine vessel, skiffs, watercraft or aircraft, or environmental damage:

(A) Submerge lights under water;

(B) Suspend or hang lights over the side of the purse seine vessel, skiff, watercraft or equipment, or;

(C) Direct or use lights in a manner other than as needed to illuminate the deck of the purse seine vessel or associated skiffs, watercraft or equipment, to comply with navigational requirements, and to ensure the health and safety of the crew.

(2) The requirements of paragraph (b)(1) of this section shall apply:

(i) From July 1 through September 30, 2015; and

(ii) During each of the periods described below, but only after NMFS has issued a notice in the Federal Register announcing that the requirements of paragraph (b)(1) of this section are effective during the following periods:

(A) From January 1 through February 28, 2015; and

(B) During any period specified in a Federal Register notice issued by NMFS announcing that NMFS has determined that U.S. purse seine vessels have collectively made, or are projected to make, 3,061 FAD sets in the Convention Area in the area between 20° N. latitude and 20° S. latitude in 2015. The Federal Register notice will be published at least seven days in advance of the start of the period announced in the notice. NMFS will estimate and project the number of FAD sets using vessel logbooks, and/or other information sources that it deems most appropriate

and reliable for the purposes of this section.

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